

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0635P

Sales Tax

Calendar Years 1995, 1996, 1997

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, a Missouri corporation that enters into long-term fleet leases and offers short-term daily rentals failed to remit sales tax on Indiana vehicle rentals, insurance charges incorporated into the lessee's monthly payment, and a capital cost reduction.

Taxpayer requests a waiver of penalty because it prepaid taxes on some leases in another state and did not know it had to pay tax a second time if a customer moved to Indiana. Taxpayer further states it exercises care when charging customers tax on reductions but failed to tax one customer correctly.

Taxpayer requests a waiver of penalty.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer's audit, completed on August 10, 1998, revealed additional taxable sales in every year of the audit.

Taxpayer argues that it owes additional tax because it prepaid tax on some leases in another state and did not know it needed to pay tax a second time if a customer moved to Indiana. The Missouri Code Sec. 144.070.5 states that a motor vehicle leased pursuant to a contract executed in Missouri is presumed to be domiciled in Missouri. It also states that the leasing company has the option of paying sales tax due either at the time of registration or on each rental and lease payment while the property is domiciled in Missouri.

Since the taxpayer had prepaid the sales tax prior to the vehicle being moved to the state of Indiana, the taxpayer did not feel it needed to subject its customers' lease payments to another state's taxes.

The fact that the taxpayer was subjected to tax on the purchase of the car in another state does not give it immunity from later taxable transactions occurring in Indiana. In addition, taxpayer failed to remit tax for insurance incorporated into the lessee's monthly payment which has been viewed as a part of the rental charge subject to sales tax.

Taxpayer was negligent in failing to remit the sales tax due.

FINDING

Taxpayer's protest is denied.